

REMARKS

In the Official Action mailed on **12 October 2005**, the Examiner reviewed claims 1-5, 7-16, 18-27, and 29-33. The amendment filed 27 July 2005 was objected to under 35 U.S.C. §132(a) because it introduces new matter into the disclosure. Claims 1-5, 7-16, 18-27, and 29-33 were rejected under 35 U.S.C. §103(a) as being unpatentable over Frey, Jr. et al (USPN 5,201,044, hereinafter "Frey") in view of Fleming (USPN 6,023,772, hereinafter "Fleming").

Objection under 35 U.S.C. §132(a)

The amendment filed 27 July 2005 was objected to because it introduces new matter into the disclosure.

Applicant has amended the specification to restore the previously deleted matter. No new matter has been added. Applicant has amended claim 12 to obviate the 35 U.S.C. §101 rejection from the previous office action.

Rejections under 35 U.S.C. §102(b)

Independent claims 1, 12, and 23 were rejected as being unpatentable over Frey in view of Fleming. Examiner avers that Frey teaches "the log is located on a secondary server that is separate from the primary server in the highly available system." Applicant respectfully points out that Frey teaches "Each node maintains its own independent log file whose identifier is stored in a designated area **on the node's disk and also in its volatile memory**" (see Frey, col. 5, lines 60-63).

In contrast, the present invention maintains its log **on a secondary server** that is separate from the primary server (see FIG. 1 and page 6, line 25 to page 7, line 12). This is beneficial because it allows recovery of file operations on the secondary server if the primary server fails. Note that Frey teaches away from the present invention by placing the log on the node where it is unavailable if the node

fails or is unreachable. There is nothing within Frey or Fleming, either separately or in concert, which suggests maintaining its log on a secondary server that is separate from the primary server.

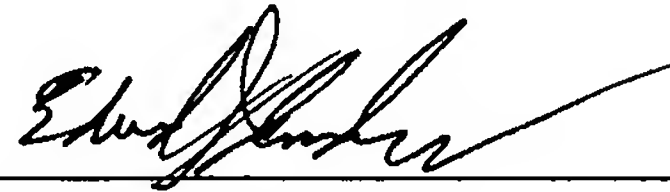
Accordingly, Applicant has amended independent claims 1, 12, and 23 to clarify that the present invention maintains its log on a secondary server that is separate from the primary server. These amendments find support in FIG. 1 and on page 6, line 25 to page 7, line 12.

Hence, Applicant respectfully submits that independent claims 1, 12, and 23 as presently amended are in condition for allowance. Applicant also submits that claims 2-5 and 7-11, which depend upon claim 1, claims 13-16 and 18-22, which depend upon claim 12, and claims 24-27 and 29-33, which depend upon claim 23, are for the same reasons in condition for allowance and for reasons of the unique combinations recited in such claims.

CONCLUSION

It is submitted that the present application is presently in form for allowance. Such action is respectfully requested.

Respectfully submitted,

By 
Edward J. Grundler
Registration No. 47,615

Date: 21 October 2005

Edward J. Grundler
PARK, VAUGHAN & FLEMING LLP
2820 Fifth Street
Davis, CA 95616-7759
Tel: (530) 759-1663
FAX: (530) 759-1665
Email: edward@parklegal.com